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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,647	01/07/2002	Folker Beck	09005-US	9208

7590                    08/14/2003

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[REDACTED] EXAMINER

ZANELLI, MICHAEL J

ART UNIT	PAPER NUMBER
3661	

DATE MAILED: 08/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/039,647	BECK, FOLKER	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael J. Zanelli	3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 16 June 2003.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-22 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1 and 22 is/are rejected.

7) Claim(s) 2-21 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### **Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### **Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

1. This is responsive to applicant's communication filed 6/16/03. Claims 1-22 are pending.
2. Applicant is advised that this application has been reassigned to the undersigned examiner.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Behnke et al. (6,146,268).

A. As per claims 1 and 22, Behnke discloses a monitoring device (Fig. 8) for a harvesting machine (Abs.). At least one sensor (Fig. 3:1) generates a signal containing information on the noise of grain as it passes through the harvesting machine. As noted in col. 5, lines 4-7, the sensor (1) is located such it is not directly exposed to the flow of grain. Behnke discloses that the monitoring device is used in a conventional harvesting machine having threshing and separating mechanisms (col. 2, lines 29-38).

5. Claims 2-21 are distinguishable over the prior art. As per claim 2, the prior art of record does not show or reasonably suggest, in combination with the other claimed subject matter, providing a sound reproduction device in the operator's cab which acoustically reproduces signals derived by the sensor. Dependent claims 3-21 are distinguishable for at least the same reasons. Although the prior art discloses outputting a warning signal to the

operator if a noise exceeds a given threshold value (Bohman, 4,275,546, col. 5, lines 28-40), it does not disclose or reasonably suggest reproducing the noise acoustically and providing the reproduced noise to the operator as claimed.

6. **REMARKS**

A. The undersigned examiner has reviewed the application, including the prosecution history. Although the previous examiner withdrew the "102e" (sic) rejection in favor of a 103 rejection, this examiner believes that claims 1 and 22 literally read on the Behnke patent. In particular, the claims merely require a *sensor* for generating a signal containing information on noises of the grain as it flows through the machine and that the *sensor* be arranged outside the grain flow. As noted above, Behnke discloses a vibration sensor arranged outside of the grain flow (col. 5, lines 4-7). Thus, applicant's arguments directed to this claim limitation are non-persuasive.

B. Claims 2-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Zanelli whose telephone number is (703) 305-9756. The examiner can normally be reached on Monday-Thursday 5:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A. Cuchlinski can be reached on (703) 308-3873. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

/mjz  
August 9, 2003

  
MICHAEL J. ZANELLI  
PRIMARY EXAMINER